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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/711,118

08/25/2004

Donald R. Moody

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EXAMINER

SMITH, MATTHEW J

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

03/31/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/711,118	Applicant(s) MOODY, DONALD R.	
	Examiner Matthew J. Smith	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,7,8,11,12 and 15-39 is/are pending in the application.
- 4a) Of the above claim(s) 2,4,7 and 16-31 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12,15 and 35-39 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>19,30Dec08;21Jan09</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 8, and 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (1867194).

Taylor discloses a thermal framing component comprising: an elongated planar web 6-9 including a longitudinal axis, a first edge parallel to the longitudinal axis, a second edge parallel to the longitudinal axis, a first side, and a second side; a first planar tab 6b extending from the first edge at approximately a ninety degree angle from the first side; a second planar tab 8b extending from the first edge at approximately a ninety degree angle from the second side in a direction opposite that of the first tab; a third planar tab 5 extending from the second edge at approximately a ninety degree angle from the second side in the direction opposite that of the first tab; a fourth planar tab, at numeral 9, extending from the second edge at approximately a ninety degree angle from the first side in the direction opposite the third tab; the third tab in longitudinal registration with the first tab; the fourth tab in longitudinal registration with the second tab; the second tab longitudinally adjacent to the first tab; the first and second tabs free of apertures; planar tabs extending from the first edge in alternating position between a ninety degree angle from the first side and a ninety degree angle from the second side in a direction opposite that of the first tab; planar tabs extending

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from the second edge in alternating position between a ninety degree angle from the first side and a ninety degree angle from the second side in the direction opposite that of the first tab; the tabs extending from the first edge at a ninety degree angle from the first side in longitudinal registration with the tabs extending from the second edge at a ninety degree angle from the second side in a direction opposite that of the first tab; the tabs extending from the first edge at a ninety degree angle from the second side in the direction opposite that of the first tab in longitudinal registration with the tabs extending from the second edge at a ninety degree angle from the first side; the tabs extending from the first edge at a ninety degree angle from the first side; and the tabs extending from the first edge at a ninety degree angle from the second side in the direction opposite that of the first tab are free of apertures.

This reference also discloses a thermal framing component comprising: an elongated planar web 6-9 including a longitudinal axis, a first edge parallel to the longitudinal axis; a second edge parallel to the longitudinal axis; planar tabs 6b, 7b, extending from the first edge and planar tabs 5, at numeral 9, extending from the second edge; tabs that extend from a first longitudinal position and from opposite edges form a "Z" shape with the web; tabs that extend from a second longitudinal position that is adjacent to the first longitudinal position and that extend from opposite edges form an inverted "Z" shape with the web; and the planar tabs extending from the first edge are free of apertures.

This reference further discloses a thermal framing system comprising: a thermal framing component including: an elongated planar web 6-9 including a longitudinal axis,

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a first edge parallel to the longitudinal axis, a second edge parallel to the longitudinal axis, a first side, and a second side; a first planar tab 6b extending from the first edge at approximately a ninety degree angle from the first side; a second planar tab 8b extending from the first edge at approximately a ninety degree angle from the second side in a direction opposite that of the first tab; a third planar tab 5 extending from the second edge at approximately a ninety degree angle from the second side in a direction opposite that of the first tab, a fourth planar tab, at numeral 9, extending from the second edge at approximately a ninety degree angle from the first side; the first and third tabs in longitudinal registration, the first and second tabs longitudinally adjacent; the first and second tabs entirely within the same plane and the third and fourth tabs entirely within the same plane; the first and fourth tabs form a first insulation slot along the longitudinal axis on the first side; the second and third tabs form a second insulation slot along the longitudinal axis on the second side; the second and third tabs form a longitudinal insulation slot; a first rigid insulation sheet 1 including a first sheet edge; the first sheet edge is reciprocally received in the first insulation slot; a second rigid insulation sheet 3 including a second sheet edge; and the second sheet edge is disposed in the second insulation slot; and the first and second tabs are free of apertures.

Allowable Subject Matter

Claims 12, 15, and 35-39 are allowed.

Response to Arguments

Applicant's arguments, see page 14, filed 21 January 2009, with respect to the rejection of claims 1, 8, 12, 15, 32, 33, and 34 under 35 U.S.C. 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new rejection is made in view of Taylor. The examiner contends Taylor discloses the tabs bent into the claimed shape and no apertures.

Claims 2, 4, 7, 11, and 16-31 are withdrawn.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Smith whose telephone number is (571) 272-7034. The examiner can normally be reached on T-Th, 8-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635

/M. J. S./
Examiner, Art Unit 3635
17 March 2009